THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.36965 OF 1998

DATED: 13-7-2007

Between:

S. Shaikunnissa Bee

.. Petitioner

and

Govt. of A.P., Education Department, rep. by its Secretary, Education, Secretariat, Hyderabad and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.36965 OF 1998

ORDER:

This writ petition is filed seeking a mandamus to direct the respondents to consider appointment of the petitioner on compassionate grounds by setting aside the order of rejection, dated 18.2.1998, in R.C.No.8592/B4/96, passed by the 3rd respondent - District Educational Officer, Kurnool, as arbitrary and illegal.

It appears, the husband of the petitioner, by name, Dada Mia, while working as Hindi Pandit Grade-II in the S.M.O.S. High School, Koilkuntla, Kurnool District, died in harness on 07.11.1995. Thereafter, the petitioner made an application to the school authorities, in the month of January 1996, seeking appointment on compassionate grounds. The school authorities recommended her case to the 3rd respondent- District Educational Officer, Kurnool, who, in turn, recommended the case to the 4th respondent – District Collector, vide his proceedings dated 29.10.1996. Thereafter, the 3rd respondent passed the impugned order, dated 18.02.1998, stating that the Government has cancelled the memo No.766/Ser.IV-1/92-2 Education, dated 18.05.1995, providing compassionate appointment to the dependants of deceased employees of aided schools in Government offices/ schools, and thereby returned the proposals sent for considering the appointment of the petitioner on compassionate

grounds. The petitioner alleges that the impugned order passed by the 3rd respondent is arbitrary and illegal, and it does not reveal as to what was the order of the 4th respondent, to whom her case was recommended by the 3rd respondent, except mentioning the proceedings of the 4th respondent in the reference caption.

Learned counsel for the petitioner contended that the impugned proceedings, dated 18.2.1998, issued by the 3rd respondent - District Educational Officer does not reveal any reasons for rejecting the case of the petitioner except saying that the Government has cancelled the Memo No.766/ Ser.IV-I/92-2 Education, dated 18.05.1995, providing compassionate appointment to the dependants of the deceased employees of aided schools etc. He further strenuously contended that neither the memo No.1366/Ser.IV.I/96-8, dated 04.07.1997, under which the memo dated 18.05.1995 has been cancelled, is applicable to the case of the petitioner nor there is any other embargo in the way of the respondents for considering the case of the petitioner for appointment on compassionate grounds. In fact, the case of the petitioner was recommended for being appointed as Attendar/Sweeper in the school, since vacant posts were available in the said cadre. Therefore, the impugned order passed by the 3rd respondent is arbitrary and illegal and the same is liable to be set aside. He further pleaded that if the petitioner was not eligible for appointment in any post, any one of her children may be considered for appointment in any suitable post.

A detailed counter-affidavit has been filed by the respondents stating that the memo, dated 18.05.1995, providing employment to the dependants of the deceased employees has subsequently been

cancelled by the Government, vide memo dated 04.07.1997. Hence, the impugned order has been passed rejecting the case of the petitioner and the same cannot be said to be either arbitrary or illegal.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

A perusal of the memo, dated 04.07.1997, canceling the earlier memo issued by the Government, dated 18.05.1995, would indicate that it has no application to the case of the petitioner. The husband of the petitioner died on 07.11.1995, whereas the subsequent memo, cancelling the earlier memo dated 18.05.1995 and disabling the authorities from considering the case of the dependants of the deceased employees, who died in harness, was issued on 04.7.1997 i.e. much after the death of the husband of the petitioner. Further, the learned counsel for the petitioner placed some G.Os. purported to have been issued by the Government considering compassionate appointment to the dependants of the deceased employees in aided schools at Kadapa and West Godavari Districts.

In view of the above, I am of the opinion that the order passed by the 3rd respondent is arbitrary, illegal and liable to be set aside. Accordingly, the impugned order, dated 18.02.1998, is set aside. The respondents are directed to reconsider the case of the petitioner for providing employment to her on compassionate grounds, as per the recommendations already made by the management of the school, and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order and communicate the same to the petitioner. Further, if the petitioner is not found eligible, the

respondents may consider the case of her children, if, any of them, found suitable for appointment in any post.

With the above directions, the writ petition is disposed of. There shall be no order as to costs.

C.V. RAMULU, J

13th July, 2007.
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